

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 19360 of 2007(D)

OS.3443/2002 of PRL.MUNSIFF COURT,THRISSUR
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PETITIONER:

1. MAHESH, S/O. CHERAPILVEETIL MADHAVAN,
VIYYUR VILLAGE, DESOM, THRISSUR TALUK.
2. MADHAVAN, S/O. CHERAPPIL KUNJUNNI,
VIYYUR VILLAGE, DESOM, THRISSUR TALUK.
3. KUTTAN S/O. MOOCHIKAL RAGHAVAN,
VIYYUR VILLAGE, DESOM, THRISSUR TALUK.
4. MURUGAN,
S/O. KRISHNAKRIPA VEETIL ADIKESAVAN,
VIYYUR VILLAGE, DESOM, THRISSUR TALUK.

BY ADV. SRI.G.SREEKUMAR (CHELUR)

RESPONDENTS:

SUKRUTHAM KURIES AND LOANS (P) LTD.,
VIYYUR, THRISSUR.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXTS:

EXT.P1: A TRUE COPY OF THE E.P.NO:1404/05 IN O.S.3443/02 ON THE FILE OF THE PRINCIPAL MUNSIFF COURT, THRISSUR DT.29.6.05

EXT.P2: -DO- OF THE OBJECTIONS OF THE PETITIONERS DT.21.7.06 IN EXT.P1

EXT.P3: -DO- OF THE ORDER PASSED BY THE PRINCIPAL MUNSIFF COURT, THRISSUR IN E.P.1404/05 IN O.S.3443/02 ON THE FILE OF THE PRINCIPAL MUNSIFF COURT, THRISSUR DT.12.2.2007

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/TRUE COPY/

P.A. TO JUDGE

M.N.KRISHNAN, J.

WP(C)No. 19360 OF 2007 D

Dated this the 27th July, 2007.

JUDGMENT

This writ petition is filed seeking to set aside the order passed by the Principal Munsiff, Thrissur in E.P.1404/05 in O.S.3443/02. The court ordered repeated arrest warrant. An interim stay was granted and respondent is served but he has not entered appearance. It is submitted that as early as on 21.6.2006 the judgment debtor has filed a counter to the effect that he is not having the means to pay the amount and he is not intentionally evading payment. Therefore, it is submitted that the judgment debtor should be given an opportunity to prove the contentions raised in his counter. From Ext.P3 order it is not discernible whether such an enquiry was conducted or not. It is well settled principle that means have to be proved. Therefore, the order under challenge is set aside and the matter is remitted back to the court below for fresh consideration whether the writ petitioners are having sufficient means to pay the amount and they are intentionally evading payment. Writ petition is disposed of accordingly.

M.N.KRISHNAN
Judge